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E. Michael Watts

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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT

PAPER NUMBER

2623

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/910,656

**Applicant(s)**

WATTS ET AL.

**Examiner**

MICHAEL VAN HANDEL

**Art Unit**

2623

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6, 7, 9, 10, 13-15, 18, 20-22, 26, 29-37 and 41-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9, 10, 13-15, 18, 20-22, 26, 29-37, 41-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ ~~Notes of Informal Patent Application~~
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/06/2008 has been entered.

### ***Response to Amendment***

1. This action is responsive to an Amendment filed 6/06/2008. Claims **1-3, 6, 7, 9, 10, 13-15, 18, 20-22, 26, 29-37, 41-43** are pending. Claims **1-3, 9, 10, 13-15, 18, 20, 21, 30, 32-35** are amended. Claims **4, 5, 8, 11, 12, 16, 17, 19, 23-25, 27-28, 38-40** are canceled. Claims **41-43** are new.

### ***Response to Arguments***

1. Applicant's arguments regarding claims **1, 13, 32, and 41**, filed 6/06/2008, have been fully considered, but they are not persuasive.

Regarding claims **1, 13, and 32**, the applicant argues that Shoff et al. does not disclose a tag value that is included in the primary content data. The examiner respectfully disagrees. As noted in the Office Action mailed 3/24/2008, Shoff et al. discloses an interactive entertainment system that enables presentation of supplemental interactive content along side traditional

broadcast video programs (see Abstract). Each subscriber of the interactive entertainment system has a viewer computing unit 24. The viewer computing unit is a set-top box (STB) 26 coupled to a television (TV) 28 (col. 4, l. 22-25). When a viewer tunes to a particular channel, the STB determines if the program is interactive. If it is, the STB launches an interactive support module (col. 3, l. 14-18). The STB then displays the supplemental content concurrently with the video content program (col. 3, l. 45-47).

Shoff et al. discloses that the method begins when a viewer tunes to a particular channel. The channel navigator controls the tuner 98 to tune to the channel. The viewer computing unit checks the appropriate channel and time slot of the EPG data structure 48 to determine if the program carried on the selected channel at this time is interactive (col. 8, l. 62-67 & col. 9, l. 1). The examiner interprets the channel and time slot of the program to be a "tag value," as currently claimed.

The applicant specifically argues that the television program of Shoff et al. does not include the channel and time slot, which the examiner equates to the tag value. The examiner respectfully disagrees. Shoff et al. discloses that the EPG data structure is checked to determine if the program being carried on the selected channel at this time is interactive, and that this determination is made by checking the appropriate channel and time slot of the EPG (col. 8, l. 62-67). That is, the viewer computing unit is aware of the channel and time slot before checking the EPG and checks this data to determine whether the program currently being shown has interactive content. The examiner notes that a television program inherently has a channel and time slot associated with it, otherwise there would be no way of distinguishing the particular program from any other television program. As such, the examiner maintains that Shoff et al.

meets the limitation of “receiving primary content data at a set-top system from an external source, the primary content data including at least one tag value identifying subsidiary data as being associated with and to be displayed during a time segment of the primary content data,” as currently claimed.

As further noted in the Office Action mailed 3/24/2008, Shoff et al. discloses transmitting EPG data records to the set-top system to be cached at the local EPG. The local EPG is thus able to identify whether a particular program is interactive compatible by quick reference to the locally cached EPG data structure (col. 7, l. 1-8). The examiner notes that at least one of the data fields 58 of the EPG stores target specifications to supplemental content. The target specifications can be in the form of memory pointers, hyperlinks, URLs, or any other designation for referencing a location containing supplemental content (col. 6, l. 49-64). The examiner interprets the target resource indicator to be a “tag value,” as currently claimed. Shoff et al. further discloses that the supplemental content is constructed as a hypertext document utilizing tags to indicate how to render content (col. 12, l. 48-67; col. 13, l. 1-27).

The applicant specifically argues that interpretations of “primary content data” as including the programming guide are problematic, as the programming guide is never displayed with any subsidiary data. The examiner notes; however, that this is consistent with Applicant’s specification, where the tag value is transmitted during the vertical blanking interval for primary content data 107, and in response to being received, is transmitted to synchronization logic of the subsidiary data control for synchronizing the identified piece of subsidiary data to the program (see p. 15, lines 12-22 of Applicant’s specification). That is, in the example of Applicant’s

specification, the tag value is not displayed. As such, the examiner maintains that a target resource indicator and tags within the hypertext document are tag values, as currently claimed.

As still further noted in the Office Action mailed 3/24/2008, Shoff et al. discloses that interactive content can be supplied locally on a storage medium, such as a CD-ROM (col. 7, l. 61-67 & col. 8, l. 52-55). A content developer creates the interactive CD-ROM (col. 7, l. 63-65). Shoff et al. further discloses that the content developer is the same provider that distributes the video content program (col. 3, l. 10-12). Shoff et al. discloses that the supplemental content is synchronized with the program using open loop control, such as a start time followed by measurable ticks or by frame count (col. 7, l. 67; col. 8, l. 1-3; & col. 10, l. 7-17, 34-43). The examiner interprets measurable ticks or frame count to be tag values, as currently claimed. The supplemental content is displayed according to a display layout and synchronized to the program according to the timing information. The data is synchronized on the basis of timing or frame count of the program (col. 8, l. 1-3; col. 10, l. 7-17, 56-58; & col. 11, l. 59-65). As such, the examiner maintains that measurable ticks and frame count are tag values, as currently claimed.

Regarding claim 41, and further regarding claims 1, 13, and 32, the applicant argues that Shoff et al. fails to disclose identifying subsidiary data as being associated with and to be displayed during a time segment of the primary content data, the primary content data to be displayed over a plurality of time segments. The applicant specifically argues that, in Shoff et al., supplementary content is associated with an entire program, not with a specific time segment of the program, the program having multiple time segments. The examiner respectfully disagrees. Shoff et al. discloses that the supplemental content is displayed according to a display layout and synchronized to the program according to timing information (col. 10, l. 50-52). For

example, the supplemental content might be a trivia game, which quizzes the viewer as to possible outcomes of various scenes. The questions are displayed on the screen according to the display layout and are timed using the timing information to coincide with the part of the program to which the questions pertain (col. 10, l. 53-58). Shoff et al. further discloses that the display layout can be automatically changed as part of the timing information to invoke a graphic or text to pop up on the screen at a timely point in the program (col. 11, l. 59-65). A TRIGGER HTML Tag occurs at a particular TIME within the program (col. 14, l. 26-30). This TRIGGER references an EVENT Tag, which further references an ACTION Tag (col. 13, l. 50-67). The ACTION Tag controls update or display of sound or picture and references further URLs to resources or objects to be displayed (col. 13, l. 54-62). That is, Shoff et al. teaches that certain time periods trigger changes in events and corresponding actions within the supplemental content. As such, the examiner maintains that Shoff et al. meets the limitation of “identifying subsidiary data as being associated with and to be displayed during a time segment of the primary content data,” as currently claimed.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 6, 7, 9, 10, 13-15, 18, 20-22, 26, 29-37, 41-43 are rejected under 35

U.S.C. 102(e) as being anticipated by Shoff et al.

Referring to claim 1, Shoff et al. discloses a method/medium/entertainment system comprising:

- receiving primary content data at a set-top system 26 (Fig. 2) from an external source 42, the primary content data including at least one tag value identifying subsidiary data as being associated with and to be displayed during a time segment of the primary content data, the primary content data to be displayed over a plurality of time segments (the examiner interprets the channel and time slot of the program to be a tag value, the target resource as being a tag value, and the frame numbers and timing information as being tag values)(col. 6, l. 49-67; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 63-67; col. 10, l. 7-17, 34-43, 50-58; & Figs. 2, 3, 5, 6);
- accessing a storage storing a plurality of subsidiary data, including the identified subsidiary data, and retrieving the identified subsidiary data based on the tag value (col. 3, l. 4-10, 42-47; col. 6, l. 16-22; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 38-44, 52-55, 64-67; & col. 10, l. 7-17); and
- generating an output signal including the primary content data and the identified subsidiary data for display, with the identified subsidiary data being displayed concurrently with the primary content data during the time segment (col. 9, l. 27-40 & Fig. 8c).



Referring to claims **2** and **14**, Shoff et al. discloses the method/medium of claims 1 and 13, respectively, further comprising:

- receiving the identified subsidiary data from the external source prior to beginning receipt of the primary content data (col. 3, l. 10-13, 42-47; col. 7, l. 61-67; col. 8, l. 52-55; & col. 9, l. 23-25); and
- storing the identified subsidiary data locally in the storage (col. 3, l. 42-47 & col. 8, l. 52-55).

Referring to claims **3**, **15**, and **26**, Shoff et al. discloses the method/medium/entertainment system of claims 2, 14, and 32, respectively, wherein receiving the identified subsidiary data comprises obtaining the identified subsidiary data from a local nonvolatile storage medium of the set-top system (col. 7, l. 61-67 & col. 8, l. 52-55).

Referring to claim **6**, Shoff et al. discloses the method of claim 1, wherein the primary content data comprises data of at least one of a television broadcast, a digital satellite broadcast, an Internet broadcast, and an audio-only broadcast (col. 4, l. 62-67 & col. 5, l. 1-5).

Referring to claims **7** and **18**, Shoff et al. discloses the method/medium of claims 1 and 13, respectively, further comprising determining the identity of the primary content data currently displayed via reading an identifier associated with the primary content data (col. 5, l. 61-67; col. 6, l. 1-28; col. 8, l. 62-67; & col. 9, l. 1-5).

Referring to claims **9** and **20**, Shoff et al. discloses the method/medium of claims 1 and 13, respectively, further comprising retrieving the identified subsidiary data from a remote server (col. 5, l. 12-23 & col. 7, l. 26-50, 61-67).

Referring to claims **10**, **21**, and **30**, Shoff et al. discloses the method/medium/system of claims 1, 13, and 32, respectively, wherein the identified subsidiary data comprises at least one of reference information regarding a program of the primary content data, biographical information regarding actors, guests or participants of a program of the primary content data (col. 5, l. 16-23).

Referring to claim **13**, Shoff et al. discloses a machine-readable medium having stored thereon programming instructions configured to program a set-top system to, when operated:

- receive primary content data at the set-top system 24 (Fig. 2) from an external source 42, the primary content data including at least one tag value identifying subsidiary data as being associated with and to be displayed during a time segment of the primary content data, the primary content data to be displayed over a plurality of time segments (the examiner interprets the channel and time slot of the program to be a tag value, the target resource as being a tag value, and the frame numbers and timing information as being tag values)(col. 6, l. 49-67; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 63-67; col. 10, l. 7-17, 34-43, 50-58; & Figs. 2, 3, 5, 6);
- access a storage storing a plurality of subsidiary data, including the identified subsidiary data, and retrieve the identified subsidiary data based on the tag value

(col. 3, l. 4-10, 42-47; col. 6, l. 16-22; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 38-44, 52-55, 64-67; & col. 10, l. 7-17); and

- generate an output signal including the primary content data and the identified subsidiary data for displaying, with the identified subsidiary data being displayed concurrently with the primary content data during the time segment (col. 9, l. 27-40 & Fig. 8c).

Referring to claim **22**, Shoff et al. discloses the machine-readable medium of claim 18, wherein the instructions for reading the identifier are performed in response to a change in the primary content data currently displayed (col. 8, l. 62-67 & col. 9, l. 1-8).

Referring to claim **29**, Shoff et al. discloses the entertainment system of claim 32, wherein the storage database includes an identification of a remote server from which subsidiary data may be retrieved and wherein the controller is to request retrieval of the subsidiary data from the identified remote server (col. 5, l. 12-23).

Referring to claim **31**, Shoff et al. discloses the entertainment system of claim 32, wherein the second controller is to determine the identity of the primary content data in response to a change in the primary content data currently displayed (col. 8, l. 62-67; col. 9, l. 1-8).

Referring to claim **32**, Shoff et al. discloses an entertainment system 62 90 (Figs. 4, 5) comprising:

- a data receiver 98 (Fig. 5) to receive primary content data from an external source, the primary content data including at least one tag value identifying

subsidiary data as being associated with and being displayed during a time segment of the primary content data, the primary content data to be displayed over a plurality of time segments (the examiner interprets the channel and time slot of the program to be a tag value, the target resource as being a tag value, and the frame numbers and timing information as being tag values)(col. 6, l. 49-67; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 63-67; col. 10, l. 7-17, 34-43, 50-58; & Figs. 2, 3, 5, 6);

- a storage database to store a plurality of subsidiary data supplemental to the primary content data received from the external source prior to receipt of the primary content data, the plurality of subsidiary data including the identified subsidiary data (col. 3, l. 4-10, 42-47; col. 6, l. 16-22; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 38-44, 52-55, 64-67; & col. 10, l. 7-17); and
- a controller coupled to the data receiver and the storage database to retrieve the identified subsidiary data based on the tag value (col. 3, l. 4-10, 42-47; col. 6, l. 16-22; col. 7, l. 1-8, 61-67; col. 8, l. 1-3, 38-44, 52-55, 64-67; & col. 10, l. 7-17), with the identified subsidiary data to be displayed concurrently with the primary content data during the time segment (col. 9, l. 27-40 & Fig. 8c).

Referring to claim **33**, Shoff et al. discloses the entertainment system of claim 32, further comprising a second controller coupled to the controller to combine the primary content data with the identified subsidiary data and forward the combined data to a display (computing unit 62 uses the received digital data in order to synchronize the supplemental data with the primary

program so computing unit 62 must have video/audio logic)(col. 9, l. 66-67 & col. 10, l. 1-17, 34-58).

Referring to claim **34**, Shoff et al. discloses the entertainment system of claim 32, wherein the controller is further configured to receive and store the identified subsidiary data in the storage database (col. 8, l. 4-34, 52-55 & Fig. 5).

Referring to claim **35**, Shoff et al. discloses the entertainment system of claim 32 wherein the controller is to allow a user to interact with the storage database (col. 8, l. 4-34, 52-55 & Fig. 5).

Referring to claim **36**, Shoff et al. discloses the entertainment system of claim 32, wherein the controller is to allow a user to access a programming guide (col. 8, l. 38-44).

Referring to claim **37**, Shoff et al. discloses the entertainment system of claim 32, wherein the controller is to allow a user to toggle enablement of the subsidiary data (col. 8, l. 4-34, 52-55; col. 9, l. 42-59; col. 11, l. 45-47; & Fig. 5).

Referring to claim **41**, Shoff et al. discloses a method comprising:

- determining by a set-top system, a time elapsed from a scheduled start of a program (col. 10, l. 7-14) based on a programming guide including the scheduled start (col. 6, l. 1; col. 8, l. 62-67; & Fig. 3), the program to be displayed over a plurality of time segments (col. 10, l. 50-52, 55-58 & col. 14, l. 25-30);

- retrieving, by the set-top system, subsidiary data associated with a time segment of the program, the time segment being selected based on the determined time elapsed (col. 10, l. 7-17, 50-53, 55-58; col. 13, l. 30-67; & col. 14, l. 1-30); and
- synchronizing, by the set-top system, the retrieved subsidiary data to the time segment of the program for concurrent display with the program during the time segment (col. 10, l. 7-17, 50-53, 55-58; col. 12, l. 44-47; col. 13, l. 30-67; & col. 14, l. 1-30).

Referring to claim **42**, Shoff et al. discloses the method of claim 41, wherein the retrieving comprises retrieving the identified subsidiary data from a remote server (col. 9, l. 66-67; col. 10, l. 1-17; col. 13, l. 50-67).

Referring to claim **43**, Shoff et al. discloses the method of claim 42, wherein the retrieving comprises obtaining a locator of the remote server based on the time segment (col. 9, l. 66-67; col. 10, l. 1-17; & col. 13, l. 50-67).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
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2623

MVH